

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD NOVEMBER 28, 2001
PHOENIX, AZ

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on November 28, 2001, at AZ POST, 2643 E. University Drive, Phoenix, AZ.

Members Present:

- Chairman Jack Rose
- Chief John Corder
- Chief Jerry Sheridan
- Assistant Chief Jack Harris, representing Chief Harold Hurtt
- Director Dennis Garrett
- Mr. Robert Forry, representing Director Terry Stewart
- Sergeant Gary Eisenga
- Sergeant Debbie Francis
- Ms. Jan Cross
- Mr. James Garcia

Members Absent:

- Attorney General Janet Napolitano
- Chief Harold Hurtt
- Director Terry Stewart
- Sheriff Clarence Dupnik
- Sheriff Joe Richards

Staff in Attendance:

- Tom Hammarstrom
- Lyle Mann
- Ed Routh
- Lynn Larson
- Marie Dryer
- Colin Peabody
- Ted Brandon
- Steve Jacobs
- Gary Maschner
- Carol Muskus
- Lois Sherlock

Counsel for Board in Attendance:

- Diana Stabler, Asst. A.G.

Guests in Attendance:

Patrick Scherden, AZ Fraternal Order of Police
George John, Navajo Department of Law Enforcement
Kent Komadina, Yen, Pilch & Komadina
Michael Kieffer, Graham County Sheriff's Office
Kristie Kieffer
Jerald Monahan, AZ Police Corps
Heidi L. Lowe, AZ Police Corps
Jim Norwood, ADOI Fraud
Terry Cooper, ADOI Fraud
Jon Heiden, AZ Police Corps
Dan Connelly, Youngtown Police Department
Ed Cibbarelli, Central Arizona College
Hilario Tanakeyowma, Gila River Police Department
Jan Madeya, ACIP
Tim Prawdzik, Gila River Police Department
Faron Humeyumtewa, Gila River Police Department
Emmett Yazzie, Navajo DPS
Daren Simeona, Navajo DPS
Cynthia Perger
Dean Mattern, Gila River Police Department
Rick Colwell, Yuma Police Department
Cesar Fazz, Yuma Police Department
Chips Thomas, Salt River Police Department
Rich Kush, ALEA
Greg Barnargas, Gila River Police Department
Lawrence Seligman, Tohono O'Odham Nation

A. CALL TO ORDER

Chairman Jack Rose called the meeting to order at 1:40 p.m.

B. INTRODUCTIONS

No introductions were made.

C. CONSENT AGENDA

Approved unanimously, motion made by Mr. Forry, seconded by Ms. Cross.

1. Minutes of the meeting held on September 26, 2001, were approved as written. Income and Expense Statement - September 2001 - approved as recorded.

Funds as of July 2, 2001	\$1,499,930.57
CJEF Revenue	436,381.49
Expenditures/Encumbrances	(476,329.06)
Balance for September 30, 2001	\$1,459,983.00

2. The following is the schedule for the 2002 Board Meetings:

JANUARY	Wednesday the 23 th at AZ POST Charging Board Meeting: 10:00 a.m. Executive Meeting: 1:00 p.m. Public Meeting: 1:30 p.m.
FEBRUARY	Wednesday the 20 th at AZ POST Charging Board Meeting: 10:00 a.m.
MARCH	Wednesday the 20 th in Sierra Vista at the Wyndemere Hotel Charging Board Meeting: 10:00 a.m. Executive Meeting: 1:00 p.m. Public Meeting: 1:30 p.m.
APRIL	Wednesday the 17 th at AZ POST Charging Board Meeting: 10:00 a.m.
MAY	Wednesday the 22 nd at AZ POST Charging Board Meeting: 10:00 a.m. Executive Meeting: 1:00 p.m. Public Meeting: 1:30 p.m.
JUNE	Wednesday the 19 th at AZ POST Charging Board Meeting: 10:00 a.m.
JULY	Wednesday the 17 th in Flagstaff at the Little America Hotel Charging Board Meeting: 10:00 a.m. Executive Meeting: 2:00 p.m. Public Meeting: 2:30 p.m.
AUGUST	Wednesday the 21 st at AZ POST Charging Board Meeting: 10:00 a.m.
SEPTEMBER	Wednesday the 25 th at AZ POST Charging Board Meeting: 10:00 a.m. Executive Meeting: 1:00 p.m. Public Meeting: 1:30 p.m.
OCTOBER	Wednesday the 16 th at AZ POST Charging Board Meeting: 10:00 a.m.
NOVEMBER	Wednesday the 20 th at AZ POST

Charging Board Meeting: 10:00 a.m.
Executive Meeting: 1:00 p.m.
Public Meeting: 1:30 p.m.

DECEMBER

Wednesday the 18th at AZ POST
Charging Board Meeting: 10 a.m.

3. The next scheduled Executive Session in accordance with A.R.S. §38-431.03(A)(1), (A)(2), (A)(3) or (A)(4) is Wednesday, January 23, 2002, 1:00 p.m. at AZ POST, 2643 E. University Drive, Phoenix, AZ.
4. The next scheduled Regular Meeting is Wednesday, January 23, 2002, 1:30 p.m. at AZ POST, 2643 E. University, Phoenix, AZ.
5. Ministerial Actions:
 - a. Certification Waivers: The following Individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Steven C. Martin	Apache Junction Police Department
Alan C. Walker	AZ Corporation Commission
Arthur L. Montgomery	AZ State University - DPS
James J. Pott	Cottonwood Police Department
Harold M. Campbell	Pinal County Sheriff's Office
 - b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES
 - c. Training Program Approvals: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were approved as requested. LIST ATTACHED TO MINUTES.
 - d. Decertification Case Status Report Updates: As of November 7, 2001, the Certifications and Standards Unit had 99 active decertification cases in various stages of the process. Eleven cases are ready for initial presentation, 34 cases require further investigation, one case is pending service of or response to a Notice of Complaint or Decision, six cases are pending hearing, 11 cases are ready for final action, and 36 cases are pending outside activity, i.e., a criminal trial or civil service hearing.

D. REGULAR AGENDA

1. Arizona Department of Insurance Request for Shortened Version of AZ POST Waiver Examination for Five Peace Officer Appointees - Mr. Lyle Mann reported to the Board that an amendment to A.R.S. §20-466 was enacted by the Legislature of the State of Arizona authorizing the Arizona Department of Insurance Fraud Unit to appoint peace officers.

Prior to the amendment, the Arizona Department of Insurance had an existing Fraud Unit consisting of retired Phoenix police officers. All were employed immediately after retiring. These individuals were subsequently appointed as peace officers, performing the same job functions as appointed peace officers as they were prior to the appointment. All meet the AZ POST minimum requirements for appointment. However, all are over the three year window, which now requires them to take the Waiver Test to receive certified status.

Under the new but unpromulgated rules, persons who have at least two years of experience in another state or a federal law enforcement agency during the last three years and whose training demonstrates substantial comparability to Arizona's basic course would be eligible to take the two-part written examination.

After the Board considered comments from Ms. Diana Stabler and Chief Terry L. Cooper, AZ Department of Insurance Fraud Unit, Chief Sheridan made a motion that based on the a finding that the interests of law enforcement are served and public welfare and safety are not jeopardized, to grant the request and allow the five appointed applicants to take the two-part written version of the AZ POST Waiver Examination, seconded by Mr. Garcia, motion carried unanimously.

2. Training Audit Deficiencies for Navajo Division of Public Safety Officers for Calendar Year 2000 - Mr. Lyle Mann explained to the Board that the AZ POST annual training audit for calendar year 2000 was held on April 17, 2001. The audit determined a 60% failure rate for the Navajo Division of Public Safety. A special training audit was conducted on May 30 - 31, 2001. A total of 78 files were reviewed; 65 files were found to be not in compliance. AZ POST met with Navajo DPS Acting Director Dorothy Fulton on July 18, 2001, to discuss the training issues. The agency was given 30 days to correct all firearms deficiencies and 90 days to correct the remaining training deficiencies. On August 30, 2001, AZ POST received a letter from the Navajo Nation requesting a 30-day extension to complete the firearms requirements. Executive Director Hammarstrom granted their request and set a deadline of September 30, 2001. AZ POST failed to receive a response from the Navajo Nation after the deadline expired. On November

5, 2001, AZ POST contacted Sgt. George John of the Navajo Academy. Sgt. John stated he would provide the needed information to AZ POST by November 12, 2001. A listing of 111 officers were identified who failed to meet the mandatory training requirements. Mr. Lyle Mann requested that Wally Whitegoat's name be deleted, and requested that Ms. Virginia Henry (Cly's) name be added for deficiency in target identification.

Sergeant John spoke before the Board on this issue. Sgt. John stated that the Training Academy is responsible for bringing the commissioned officers up to standards. He explained there are seven police districts, and they do not have a centralized database. Within the next 30 days, Sgt. John will go back to the individual districts to see if there are any documents that were not submitted to the Academy. Also, the Training Academy will be working to provide, not only continuing and proficiency training, but also getting the 111 officers firearms qualified. Sgt. John assured the Board they are making an effort to bring the officers into compliance with AZ POST rules and regulations.

The Board considered comments from Lyle Mann, Diana Stabler and Tom Hammarstrom. The Board recommended the Navajo Division of Public Safety have a centralized database to maintain records in order to prevent this problem from occurring in the future. Chief Sheridan made a motion to initiate action for suspension under R13-4-109(B) of each officer identified in the list marked Navajo Division of Public Safety Annual Audit/Calendar Year 2000, and updated records be accepted to ensure compliance with training standards, motion seconded by Mr. Forry, motion carried unanimously.

3. Continuation of Consideration of Proposed Rulemaking Action from Charging Board Meeting, held at 9:00 a.m. on 11/28/2001 - Lyle Mann recommended this item be tabled until the end of the agenda.

E. REPORTS

1. AZ POST

- a. Special Projects - Mr. Hammarstrom reported that during the latest CCMR process a number of POST positions were considered by the Law Enforcement Merit System Council (LEMSC), including POST's three Administrator positions. At that time, the Council approved the positions with the request that the three job descriptions be consolidated into one description. Mr. Hammarstrom accomplished that task and submitted it to the LEMSC. They will consider the the new job description at their next meeting, November 29, 2001.
- b. Legislative Update - Mr. Hammarstrom reported he is keeping a close

watch on the budget shortfalls and how it will affect the POTF.

- c. RCPI Site Visit Report - Mr. Hammarstrom stated that the Federal COPS Office conducted an on-site visit last month to audit the performance of the RCPI. They received the best audit report of any Institute in the country. This is attributable to the professionalism of Commander Kim Humphrey and his staff. They are very important partners, and we are very proud of their performance.
- d. Ms. Diana Stabler reported to the Board concerning the case of Officer Robert Gaytan. The Board initially revoked Officer Gaytan in December 1999 for two instances of foul and egregious racial epithets. He returned before the Board on a motion for reconsideration. The Board reconsidered his case, and upheld the revocation. Officer Gaytan appealed before the Superior Court. The Superior Court upheld the Board's revocation, determining it was not an abuse of discretion, and that there was substantial evidence to support the case against Officer Gaytan.

2. BASIC TRAINING

No report.

3. POLICE CORPS

Director Jon Heiden introduced two members of his staff - Jerry Monahan, Assistant Director, and Ms. Heidi Lowe, Program Assistant. Director Heiden reported that two staff members attended terrorism training conducted by six Israeli Intelligence officers. This training will be offered to other law enforcement agencies beginning in the Spring of 2002. Police Corps has been recruiting throughout the state, and they now have 260 applicants. They will submit the scholarship list that will be awarded next semester at the next Advisory Board meeting in December. The next testing for out-of-state applicants will be in December. Police Corps has received 40 responses from different agencies that would like to participate in the program. The first academy will be June 16, 2002.

4. DEPARTMENT OF CORRECTIONS

No report.

5. ARIZONA REGIONAL COMMUNITY POLICING INSTITUTE

No report.

F. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 - Chris J. Anzures - Phoenix Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(6)(7) and (8). Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Mr. Garcia, motion carried. *Director Garrett recused himself from voting.*

Case #11 was moved forward by request - Robert M. Van Camp - Paradise Valley Police Department - The Board considered comments by Mr. Kent Komadina, representing Officer Van Camp. The Board considered the Consent Agreement, Order and Decision (voluntary relinquishment of certification). Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision, seconded by Mr. Forry, motion carried. *Ms. Cross recused herself from voting.*

Case #2 - Rudolph H. Fahrner - AZ Department of Transportation - MVD - The Board considered the documentation regarding violations of R13-4-109(A)(6)(7) and (8). Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Sgt. Francis, motion carried unanimously.

Case #3 - Terry T. Grace, Jr. - Pima County Sheriff's Office - The Board considered the documentation regarding violations of R13-4-109(A)(6)(7) and (8). Mr. Garcia made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Mr. Forry, motion carried unanimously.

Case #4 - Michael D. Kieffer - Graham County Sheriff's Office - This case came before the Board on September 26, 2001. The Board considered documentation regarding violations of R13-4-109(A)(6)(7) and (8). After a lengthy discussion and several motions, the Board made a determination to table this case until Mr. Kieffer had taken a polygraph examination regarding specific issues the Board had set forth. Mr. Kieffer took the polygraph, and a report was provided to the Board.

The Board considered comments from Ms. Diana Stabler and Mr. Kieffer. Sgt. Francis made a motion to suspend certification from July 26, 2000 to December 4, 2001, with the following requirements for reactivation: (1) The hiring agency will provide information to the Board that Mr. Kieffer is familiar with their policies and procedures in reference to Search

and Seizure and Evidence Handling; (2) He will also take instruction in those areas, whether it be from the Academy or an agency-sponsored class. The motion was seconded by Chief Sheridan, motion carried unanimously.

Case #5 - Christopher J. Knight - Mesa Police Department - The Board considered the Consent Agreement, Order and Decision (voluntary relinquishment of certification). Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision, seconded by Sgt. Francis, motion carried unanimously.

Case #6 - Pedro A. Molera - Nogales Police Department - The Board considered the Consent Agreement, Order and Decision (suspension for a minimum of six months, as a condition of reactivating certified status, Respondent shall undergo assessment and treatment). Sgt. Francis made a motion to adopt the Consent Agreement, Order and Decision, seconded by Mr. Forry, motion carried. *Ms. Cross recused herself from voting.*

Case #7 - Gilbert H. Montiel - Pinal County Sheriff's Office - The Board considered the documentation regarding violations of R13-4-109(A)(7) and (8). Director Garrett made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Sheridan, motion carried. *Sgt. Francis recused herself from voting.*

Case #8 - Cynthia A. Perger - Flagstaff Police Department - The Board considered the Consent Agreement, Order and Decision (suspension of six months, from August 3, 2001). Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision, seconded by Sgt. Eisenga, motion carried unanimously.

Case #9 - Harold L. Sanders - Chandler Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(7) and (8). The Board also considered comments by Mr. Sanders. Chief Sheridan made a motion to adopt the Findings of Facts and Conclusions of Law and revoke peace officer certification, seconded by Sgt. Eisenga, motion carried unanimously.

Case #10 - Michael C. Stankus - Phoenix Police Department - The Board considered the documentation regarding violations of R13-4-109(A)(6)(7) and (8). Sgt. Francis made a motion to adopt the Findings of Facts and Conclusions of Law and revoke peace officer certification, seconded by Mr. Forry, motion carried. *Director Garrett recused himself from voting.*

G. CALL TO THE PUBLIC

None received.

Before resuming discussion regarding the rules package, Chairman Rose adjourned the meeting at 2:50 p.m. The meeting reconvened at 3:00 p.m.

D. REGULAR AGENDA

3. Continuation of Consideration of Proposed Rulemaking Action from the Charging Board Meeting, held at 9:00 a.m. on 11/28/2001 - Mr. Lyle Mann continued to inform the Board of the necessary changes to the Arizona Administrative Code. The Board approved the proposed rules. Mrs. Cross made a motion to authorize Staff to publish the proposed rules and to make changes which might be recommended by GRRC if the changes are word choice, format, grammar, or writing style and do not change the intent or meaning of the rule, seconded by Chief Sheridan, motion carried unanimously.

H. ADJOURN

Chairman Rose adjourned the meeting at 3:30 p.m.

Dated - December 5, 2001

Lois Sherlock, Recording Secretary

MINUTES APPROVED:

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